

Appl. No. 10/776,839
Docket No. CM2725MQ
Amdt. dated November 12, 2009
Reply to Office Action mailed on August 20, 2009
Customer No. 27752

REMARKS

Claim Status

Claims 1-6 and 8-10 are pending in the present application. No additional claims fee is believed to be due. Claim 1 has been amended. Support for the amendment to Claim 1 can be found at least on page 9, lines 17-33; page 11, lines 14-24; and Figure 6 of the originally filed specification. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejections Under 35 U.S.C. §103(a) Over Suzuki

Claims 1-6 and 8-10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Suzuki, (EP 1 088 537 A2). Applicants respectfully traverse this rejection, as the references does not establish a *prima facie* case of obviousness. Specifically, the reference does not teach or suggest all of Applicants' claim limitations, as required under MPEP 2143.03.

The Office Action states that "Applicant argues that there is no teaching or suggestion in Suzuki of an absorbent core having two discontinuous layers of absorbent polymer material that are arranged in such a way that the absorbent polymer material of one layer faces the areas of junction of the other layer. However, the claims do not require the layers to be adjacent or directly face the areas of junction of the other layer. As broadly as claimed the second substrate layer M' faces areas of junction of the first substrate layer M (Figure 17)." See Office Action, Page 2.

As such, Applicants have amended Claim 1 to require that the discontinuous layer of absorbent material of the first substrate layer directly faces the areas of junction of the second substrate layer and the first surface of the discontinuous layer of absorbent material of the

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second substrate layer directly faces the areas of junction of the first substrate layer, such that the areas of junction are offset.

The Suzuki reference is directed to a highly absorbing composite sheet with a highly water absorbing solid resin held in a non-woven substrate sheet. However, there is no teaching or suggestion in Suzuki of an absorbent core having two discontinuous layers of absorbent material that are arranged in such a way that the absorbent material of one layer faces the areas of junction of the other layer, such that the areas of junction are offset.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Because the cited reference fails to teach all of the claim limitations of amended Claim 1, the Office has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since Claims 2-5 and 8-10 depend directly or indirectly from Claim 1, the cited reference also fails to teach all of their claim limitations. Therefore, Applicants assert that Claims 1-5 and 8-10 are nonobvious over the cited reference and are in condition for allowance.

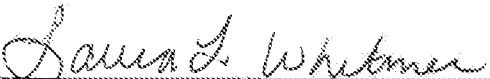
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Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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